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Thematic discussions

Timely sharing of information in accordance with article 56 of the United Nations Convention against Corruption and improving communication and coordination between various asset recovery practitioner networks

Background document prepared by the Secretariat

I. Introduction

1. The Conference of the States Parties to the United Nations Convention against Corruption has repeatedly placed great emphasis on article 56 of the Convention (see its resolutions 3/3, 4/4 and 5/3). In its resolution 6/2, the Conference directed the Open-ended Intergovernmental Working Group on Asset Recovery to initiate the process of identifying best practices and developing guidelines for proactive and timely sharing of information to enable States parties to take appropriate action, in accordance with article 56 of the Convention.

2. The General Assembly, in its resolution 71/208, encouraged States parties to the Convention to use and promote informal channels of communication and the possibility of spontaneous exchange of information, as permitted by domestic law, in particular prior to making formal requests for mutual legal assistance, by, inter alia, designating officials or institutions, as appropriate, with technical expertise in international cooperation in asset recovery to assist their counterparts in effectively meeting requirements for mutual legal assistance.

3. The Open-ended Intergovernmental Working Group, at its eleventh meeting, held in Vienna on 24 and 25 August 2017, conducted a thematic discussion on proactive and timely sharing of information, in accordance with article 56 of the Convention. The Secretariat had prepared a document (CAC/COSP/WG.2/2017/2) containing background information based on both the replies of 10 States parties[1] to a note verbale containing a request for information on the issue and the finalized country reviews of 156 States parties with regard to article 46, paragraphs 4 and 5. During the thematic discussion at the eleventh meeting, panellists from Belgium, Switzerland and the Egmont Group informed the Group of their relevant experiences.

* CAC/COSP/WG.2/2018/1.

[1] Armenia, Czechia, Germany, Mongolia, Peru, Russian Federation, Switzerland, Ukraine, United States of America and Venezuela (Bolivarian Republic of).

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The Group concluded that the Secretariat, in consultation with the Working Group, should continue its efforts to identify best practices and develop guidelines for proactive and timely sharing of information. It also concluded that, further to the points for discussion proposed in document CAC/COSP/WG.2/2017/2, it could discuss how focal points from the various networks could be brought together and how communication and coordination between various networks could be improved.

4. In its resolution 7/1, the Conference urged States parties, without prejudice to domestic legal and administrative systems and procedures, to endeavour to take measures to permit them to forward information on proceeds of crime in order to facilitate recovery of assets through criminal, civil or administrative proceedings in accordance with article 56 and chapter IV of the Convention. It also decided that the Working Group should continue its work by, inter alia, continuing to collect data on best practices, with a view to developing non-binding guidelines concerning the timely sharing of information to enable States parties to take appropriate action, in accordance with article 56 of the Convention, and conducting an analysis of how communication and coordination between various asset recovery practitioner networks could be improved, with a view to developing guidelines for the proactive and timely sharing of information.

5. Asset recovery practitioner networks started to be established in the early 2000s and are aimed at combating money-laundering and other crimes. They have proved effective in helping countries to establish systems for obtaining information on the source, destination and ultimate beneficiary of proceeds of crime. They contribute to providing direct communication channels and therefore addressing practical challenges of asset recovery such as differences in legal systems or mutual legal assistance procedures and the complexity of multi-jurisdictional investigations. There are three types of networks relevant in that regard: those that mainly target asset confiscation and recovery (the asset recovery inter-agency networks); the Global Focal Point Network on Asset Recovery of the Stolen Asset Recovery (StAR) Initiative and the International Criminal Police Organization (INTERPOL), which has a global membership and focuses on asset recovery; and those networks that have a broader law enforcement mandate but are also used by practitioners in the context of asset recovery.

6. The present document is aimed at providing a basis for the discussion on non-binding guidelines concerning the timely sharing of information, including the improvement of communication and coordination between various asset recovery practitioner networks. Firstly, it provides an update of the information on spontaneous sharing of information prepared in 2017 (CAC/COSP/WG.2/2017/2 and CAC/COSP/2017/8). The update is based on replies received from an additional seven States,[2] to the note verbale sent on 2 May 2017, seven additional country reviews on article 46, paragraph, 4 that had been completed since the last meeting of the Working Group and, for the first time, six country reviews on article 56 that had been completed at the date of reporting. Secondly, an overview of asset recovery practitioner networks is given, with a view to determining the role of focal points in information exchange and how those networks currently ensure communication and coordination. Lastly, the document contains draft, non-binding guidelines on both topics for consideration by the Working Group.

[2] Bahrain, Belgium, Denmark, Myanmar, Paraguay, Philippines and the Sudan. As at the date of reporting, 14 of the replies have been published on the web page of the eleventh meeting of the Working Group (www.unodc.org/unodc/en/corruption/WG-AssetRecovery/session11.html).

II. Updated information on article 46, paragraphs 4 and 5, and article 56

7. Article 56 of the Convention against Corruption reads as follows:

> Without prejudice to its domestic law, each State party shall endeavour to take measures to permit it to forward, without prejudice to its own investigations, prosecutions or judicial proceedings, information on proceeds of offences established in accordance with this Convention to another State party without prior request, when it considers that the disclosure of such information might assist the receiving State party in initiating or carrying out investigations, prosecutions or judicial proceedings or might lead to a request by that State party under this chapter of the Convention.

8. In addition to article 56, spontaneous transmission of information is addressed in article 46 (mutual legal assistance), paragraphs 4 and 5, and article 48 (law enforcement cooperation) of the Convention. A number of further global and regional treaties also address the issue. These include: United Nations Convention against Transnational Organized Crime (article 18, paragraphs 4 and 5); the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters; article 20 of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism; the Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders; article 29 of the Arab Anti-Corruption Convention; article 4, paragraph 1 of the Agreement on Cooperation among Member States of the Commonwealth of Independent States in Combating Crime; and article 8 of the Convention of the Portuguese-Speaking Community on Mutual Legal Assistance. Article 78 of directive No. 02/2015/CM/UEMOA on the fight against money-laundering and the financing of terrorism in the States members of the West African Economic and Monetary Union contains regulations on spontaneous information-sharing by financial intelligence units. In the reviews and in the replies to the note verbale, many countries referred to their regional instruments and to bilateral treaties, agreements, arrangements or memorandums of understanding that contained provisions on spontaneous disclosure.

9. The information gathered from the additional replies to the note verbale and the reviews finalized since the last meeting of the Working Group generally confirmed the analysis made in 2017. Further, for the time being, no significant difference could be observed between the implementation of article 46, paragraphs 4 and 5, and article 56 as reflected in the country review reports. However, the 163 country reports on article 46, paragraphs 4 and 5, covered the majority of States parties from all regions, while the six reports on article 56 (three States from the Group of African States, two from the Group of Asia-Pacific States and one from the Group of Western European and other States) did not allow final conclusions to be drawn at the time of reporting.

10. The new information confirmed that spontaneous disclosure, in the same way as mutual legal assistance in general, did not generally require a treaty basis. Nearly all countries could spontaneously disclose information in the absence of a treaty, operating on the basis of reciprocity or case-by-case arrangements. Many countries had information-sharing agreements, arrangements or memorandums of understanding on the exchange of information, in particular with their neighbouring countries. Some countries required a treaty basis or foresaw that the spontaneous transmission of information without a treaty basis required specific authorization. However, those remained rare exceptions and no such requirements were reported in the new information. A number of States, including one providing the new information, indicated that they could use the Convention as a legal basis for spontaneous disclosure. Although treaties and arrangements were not necessary for

most countries, they facilitate and promote the spontaneous disclosure of information by providing legal clarity about its permissibility. The country reviews have generally not led to specific recommendations to conclude such agreements, because the Convention does not set them out as an obligation, but policy studies have recommended agreements as a practical measure to strengthen spontaneous disclosure.[3] The treaty basis for spontaneous information-sharing is addressed below in the draft, non-binding guideline 1, contained in section IV below.

11. Approximately 20 per cent of countries had enacted specific legislation on spontaneous disclosure. The majority of countries had introduced those provisions into their general laws, such as mutual legal assistance laws or criminal procedure codes, thereby enabling the judicial authorities to transmit information. The countries that had done so included, in particular, a number of countries from the Group of Western European and other States and the Group of Eastern European States. In addition, three countries from the Group of African States had included provisions on spontaneous disclosure of information in their anti-corruption laws, and a number of countries from all regional groups had included such provisions in the laws against money-laundering, thus focusing on information-sharing by financial intelligence units. That was a reflection of reforms aimed at implementing anti-money-laundering standards (in particular recommendation 40 of the International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation of the Financial Action Task Force). Further, the States members of the West African Economic and Monetary Union included spontaneous information-sharing more often in their money-laundering legislation than others because the above-mentioned directive No. 02/2015/CM/UEMOA, on the fight against money-laundering and the financing of terrorism, contains a provision on spontaneous information-sharing by financial intelligence units and because the directives of the Union are generally implemented through legislation.

12. The vast majority of countries did not have legislation on spontaneous disclosure. However, that was only considered an obstacle in two countries, of which one was in the process of addressing the issue in draft legislation. A number of countries considered that, even if not explicitly allowed, spontaneous transmission of information was possible to the extent that it was not prohibited. Nevertheless, a number of country reports contained recommendations on enacting relevant legislation. The analysis suggested that several countries considered desirable a certain formalization of procedures through national rules, to provide for greater clarity at the domestic level. Some countries replaced or complemented a legislative regulation with guidelines, circulars or protocols. In some countries, legislation was also considered necessary for granting authority to institutions to share information and overcome confidentiality requirements. With regard to regulations supporting spontaneous information-sharing, see draft, non-binding guideline 2, in section IV below.

13. The countries with legislation in place provided for different requirements and conditions for the spontaneous sharing of information. Some countries included only relatively simple conditions, or those already contained in article 46 of the Convention, such as the speciality principle (the information may not be used for other purposes than the one giving rise to the submission or the law governing the submission), general confidentiality requirements, a reservation for national security reasons or the condition that the country could only share information without prejudice to its own investigations, prosecutions or judicial proceedings. However, some national laws contained very strict requirements, for example, data protection and deletion requirements that went beyond confidentiality requirements, minimum penalty requirements (up to five years of imprisonment) or requirements that the information otherwise related to offences of a certain gravity, for example, those qualifying for extradition. Some countries also required a treaty basis or had strict

[3] See, for example, Kevin M. Stephenson and others, *Barriers to Asset Recovery: An Analysis of the Key Barriers and Recommendations for Action* (Washington, D.C., World Bank, 2011), p. 22.

procedural requirements, for example, a decision at the ministerial level. In the new information, no additional or particularly strict requirements were reported.

14. With regard to the transmitting institution, States parties generally permitted the competent authorities from which the information originated to spontaneously transmit it abroad. In total, only two countries (and none of the countries providing the new information) had designated a specific authority to transmit information generated by all competent authorities. Often, the information originates in financial intelligence units, but it could also originate in any law enforcement or judicial authority involved in the investigation or adjudication of corruption cases. A few countries also allowed for diagonal transmission, i.e. the transmission to an authority that was not the direct counterpart of the issuing institution. Informal channels of communication, such as officials posted in overseas missions and appointed liaison officers, as well as ad hoc arrangements, were also used widely. Draft, non-binding guideline 3, contained in section IV below, addresses legal conditions and institutional requirements for spontaneous information-sharing.

15. With regard to the role of receiving jurisdictions, article 46, paragraph 5, contains the obligation to comply with a request that information remain confidential, even temporarily, or with restrictions on its use. Most countries comply with that obligation, although recommendations were made to some States parties, including one State party providing the new information, to ensure compliance with such confidentiality requests. To make spontaneous disclosure effective and successful, active follow-up by the receiving State is also important. In order to allow for successful follow-up to the information received, it has been recommended that recipients of spontaneously disclosed information contact the authority of origin to find out about the foreign case, ensure that assets remain frozen and discuss the next steps to be taken. Further, it is important that the receiving country open an investigation, in the course of which it prepares a mutual legal assistance request to formalize the transmission of information and complement the information received. In many cases, a request for (continued) freezing or seizure of assets would also be permissible.[4] Draft, non-binding guideline 4, contained in section IV below, addresses the role of receiving jurisdictions.

16. Spontaneous disclosures with regard to administrative freezing cases are an important special case. Administrative freezes were adopted and implemented widely for the first time in the context of the Arab Spring. Canada, Switzerland, the United States of America and countries of the European Union took measures to administratively freeze assets between 2010 and June 2012. To make progress in asset recovery cases, it is important that the requesting jurisdictions are aware of the freezing orders and the location and amount of frozen assets. Therefore, the jurisdictions that had administratively frozen assets used spontaneous disclosures to provide information on those assets. Others went even further and provided capacity-building to practitioners in foreign jurisdictions so that they could follow up on such measures, for example, through the placement of regional advisers.[5] At the eleventh meeting of the Working Group, the panellist from Belgium explained that in the case involving the former President of Tunisia, Ben Ali, domestic legislation had not yet been enacted to support the implementation of Council of the European Union decision 2011/72/CFSP of 31 January 2011 concerning restrictive measures directed against certain persons and entities in view of the situation in Tunisia. However, Belgium had opened a national investigation into money-laundering and, using the Convention as a basis, had swiftly frozen and seized relevant assets, set up a system for proactive information exchange and established direct contact with Tunisia to assist with the mutual legal assistance request. Following that, a platform for

[4] Jean-Pierre Brun and others, *Asset Recovery Handbook: A Guide for Practitioners* (Washington, D.C., World Bank, 2011), p. 137, and Larissa Gray and others, *Few and Far: The Hard Facts on Stolen Asset Recovery* (Washington, D.C., World Bank, 2014), p. 3.

[5] Gray and others, *Few and Far*, p. 42.

operational information-sharing in asset-tracing investigations related to Mr. Ali and his family members was set up on the I-24/7 secure network of INTERPOL.

17. Another important special case is the spontaneous disclosure of information on ongoing or concluded settlements to resolve foreign bribery cases. A study by the StAR Initiative [6] contained a number of recommendations, including that the authorities in jurisdictions pursuing settlements should spontaneously inform affected jurisdictions that a negotiation toward a settlement was taking place, and should proactively share information on concluded settlements with other potentially affected countries. Countries whose officials were allegedly bribed should step up their own efforts to mount effective investigations and prosecutions against bribe-givers and takers. At its eleventh meeting, the Working Group re-emphasized the need for States parties to make information on settlements and other alternative mechanisms available, including, where appropriate, through public means (CAC/COSP/WG.2/2017/4, para. 69). Spontaneous information-sharing in administrative freezing cases and in settlement procedures are contained in draft, non-binding guideline 5, contained in section IV below.

III. Existing practitioner networks and considerations on steps to improve communication and coordination between various asset recovery practitioner networks

18. The spontaneous transmission of information requires a high level of trust and confidence among the counterparts; law enforcement networks and secure platforms play an essential role in that regard. As mentioned above, three types of networks are relevant: the asset recovery inter-agency networks; the StAR Initiative/INTERPOL Global Focal Point Network on Asset Recovery; and those networks that have a broader law enforcement mandate but are also used by practitioners in the context of asset recovery.

19. A global directory of asset recovery networks developed by the StAR Initiative will be made available to the Working Group in conference room paper CAC/COSP/WG.2/2018/CRP.2.

20. Draft, non-binding guidelines 6 and 7, contained in section IV below, address the effectiveness of networks and the communication and coordination between them.

A. Asset recovery inter-agency networks

21. Asset recovery inter-agency networks provide practitioners in the field of asset confiscation and recovery an opportunity to address challenges in international cooperation. The Camden Asset Recovery Inter-Agency Network was the first of these networks, and others established later have the same main objective, namely the identification, seizure, freezing, confiscation and recovery of assets pertaining to all crimes. They all have common methodologies and objectives.

22. The networks are placing increased focus on asset confiscation and the return of proceeds of crime. Although most countries are successful in prosecuting corruption cases, instances of actual asset confiscation and return are rare. With the increased focus on coordination and the exchange of information in a timely and informal manner, there has been a significant increase in multi-jurisdictional coordination efforts aimed at confiscation.

23. The networks promote international cooperation through informal channels of communication between requesting and requested States. In that respect, they bring together relevant competent authorities for all crimes, including practitioners

[6] Jacinta Anyango Oduor and others, *Left out of the Bargain: Settlements in Foreign Bribery Cases and Implications for Asset Recovery* (Washington, D.C., World Bank, 2014); see also CAC/COSP/WG.2/2016/2.

involved in asset recovery and the fight against corruption prior to making formal requests for mutual legal assistance. By building confidence and establishing trust between practitioners, a foundation is created for smooth international cooperation. This has already resulted in an increased number of requests for information aimed at identifying, locating, seizing and confiscating proceeds of crime in other countries and across regions. To that end, it is usual for two officials or institutions from each jurisdiction with technical expertise in asset confiscation to be designated as contact points. Typically, one of the contact points will be from an agency involved in asset tracing and forfeiture or have direct access to practitioners in that area, such as law enforcement agencies and prosecution authorities. Contact points promote the exchange of information and good practices relating to asset confiscation and recovery, including mutual legal assistance, although mutual legal assistance requests must be submitted through the appropriate formal legal channels.

24. A shared objective of the asset recovery inter-agency networks is to perform a knowledge-building function, through training on all aspects of tackling the proceeds of crime. Often, regional networks use their meetings to share experiences on different issues. These specialized gatherings of experts are useful in identifying good practices and formulating recommendations for both policymakers and practitioners in asset recovery.

25. Within each network, the contact points work together by holding in-person meetings, using an electronic platform or communicating through the secretariat. Most networks meet at least once a year, but may on occasion meet more often. In order to enhance secure communication and the generation of statistics, the networks develop secure platforms accessible only to their members. This is for example, the case with the Camden Asset Recovery Inter-Agency Network, the Asset Recovery Inter-Agency Network for Southern Africa, the Asset Recovery Inter-Agency Network for Asia and the Pacific, and the Asset Recovery Network of the Financial Action Task Force of Latin America (GAFILAT). The Asset Recovery Network of GAFILAT has an electronic platform located in the financial intelligence unit of Costa Rica, while the European Union Agency for Law Enforcement Cooperation (Europol) provides secure message facilities through its Secure Information Exchange Network Application. The secretariats of the networks also facilitate communication among contact points. The networks generally have a president and a steering group that oversee the activities of the network, external communication and the preparation of the periodic meetings.

List of asset recovery inter-agency networks

26. The first and oldest asset recovery inter-agency network is the Camden Asset Recovery Inter-Agency Network. It was established in 2004 and its members are mostly countries in Europe, although Australia, Canada and the United States are also members. Its secretariat is located in Europol in the Hague, the Netherlands. The network is linked to similar asset recovery networks in Southern Africa, East Africa, West Africa, Latin America and the Caribbean and the Asia-Pacific region that were established with the support of the United Nations Office on Drugs and Crime (UNODC) and other technical assistance providers.

27. The Asset Recovery Inter-Agency Network for Southern Africa was established in 2009. Its secretariat is hosted by the Asset Forfeiture Unit of South Africa, which is part of the Office of the National Director of Public Prosecutions.

28. The Asset Recovery Network of GAFILAT was established in 2010. Its secretariat is part of the GAFILAT secretariat.

29. The Asset Recovery Inter-Agency Network for Asia and the Pacific was established in 2013. The Supreme Prosecutor's Office of the Republic of Korea houses and supports its secretariat.

30. The Asset Recovery Inter-Agency Network for Eastern Africa was launched in 2013. Its secretariat is supported by the East African Association of Anti-Corruption Authorities.

31. The Asset Recovery Inter-Agency network for West Africa was launched in 2014. The Judicial Agency of the Treasury of Côte d'Ivoire serves as its permanent secretariat.

32. The Asset Recovery Inter-Agency Network for the Caribbean was launched in 2017. Its secretariat is in the Regional Security System Asset Recovery Unit in Bridgetown.

Cooperation between the regional networks

33. Because cases tend to require assistance across geographical regions, there has been a greater move towards establishing contacts between networks. This helps to avoid duplication, increases the geographical reach of the regional networks and enables the contact points to engage across the globe when cases involve countries outside their own region.

34. In order to strengthen ties between the networks, the Camden Asset Recovery Inter-Agency Network secretariat and Europol host and fund annual meetings for representatives of all regional asset recovery inter-agency networks for peer training, exchange of knowledge, information-sharing and networking. Attending the plenary meetings and facilitating training are seen as other ways to strengthen links between networks. Some of the networks allow other regional networks access to their online platforms. For example, the Asset Recovery Inter-Agency Network for Southern Africa grants access to its communication platform to contact points from other regional networks. The Asset Recovery Inter-Agency Network for the Caribbean will launch its website in 2019, which will also be accessible to other networks.

35. Although the regional networks respect the official languages of their members, many of them recognize the need to have in place one operational language to promote more efficient and spontaneous communication between contact points. For instance, contact points in both the Camden Asset Recovery Inter-Agency Network and the Asset Recovery Inter-Agency Network for Southern Africa are required to speak English as the operational language to facilitate requests from foreign countries. At the same time, interpretation may be provided in annual general meetings or for technical assistance activities provided by the Asset Recovery Inter-Agency Network for Southern Africa.

36. There is also an established practice of cooperation, whereby contact points are connected through their secretariats. The secretariats facilitate initial contact with other regional networks within the international legal frameworks available. Such contacts have been instrumental in advancing transnational cases. For example, in one case, contacts in Switzerland were established by the Asset Recovery Inter-Agency Network for Southern Africa through the Camden Asset Recovery Inter-Agency Network, to ask law enforcement authorities in Switzerland to freeze money held in Swiss banks.

B. Global Focal Point Network on Asset Recovery of the Stolen Asset Recovery (StAR) Initiative and the International Criminal Police Organization

37. Launched in 2009, the INTERPOL/StAR Initiative Global Focal Point Network on Asset Recovery was established with the aim of assisting practitioners to overcome operational barriers associated with international asset recovery by providing a secure information exchange platform for criminal asset recovery. Authorized law enforcement officers from each member country (INTERPOL member countries) are designated as focal points to respond to the immediate needs for assistance from any other member country in asset recovery. The Network currently has 234 dedicated

focal points, who are nominated by national law enforcement agencies, judicial and administrative authorities and represent 133 countries. The Global Focal Point Network on Asset Recovery also provides operational support and technical assistance to its members, as well as meetings, conferences and training workshops organized in various regions of the world. The Network is hosted by the INTERPOL general secretariat.

C. Other law enforcement networks

38. There are a number of networks that involve asset recovery as part of a broader law enforcement mandate. The below list is meant to be illustrative rather than exhaustive.

39. The Egmont Group of Financial Intelligence Units is a body of 155 financial intelligence units that was established in 1995. The Egmont Group provides a platform for the spontaneous and secure exchange of expertise and financial intelligence to combat money-laundering and the financing of terrorism. Its members also cooperate through regular meetings. Within the Group, the financial intelligence units are provided with specific guidance on communicating and cooperating with other financial intelligence units around the world. All interested financial intelligence units globally are eligible for membership, provided they meet specified criteria.

40. The European Judicial Network is a network of contact points created in 1998 for the facilitation of cooperation and the establishment of direct contacts between the judicial authorities in the States members of the European Union. National contact points are nominated by each member State from among central authorities in charge of international judicial cooperation, judicial authorities and other competent authorities with specific responsibilities in the field of international judicial cooperation. The website of the Network offers e-tools required for the functioning of the Network and for the facilitation of cooperation by contact points, prosecutors, judges and other legal professionals. The Network is composed of more than 300 national contact points from European Union member States, the European Commission and its secretariat, based in the Hague.

41. The Hemispheric Information Exchange Network for Mutual Assistance in Criminal Matters and Extradition of the Organization of American States (OAS) was established in 2000 in order to increase and improve the exchange of information among OAS member States in the area of mutual assistance in criminal matters. The Network has a secure electronic communications system to facilitate the exchange of information between authorities that deal with issues of mutual assistance in criminal matters and extradition.

42. The Ibero-American Legal Assistance Network is a network for cooperation in civil and criminal matters that was established in 2004. Its members comprise 22 Ibero-American countries and the Supreme Court of Puerto Rico. It has two official languages: Spanish and Portuguese. The contact points of IberRed are from the ministries of justice, central authorities, prosecution offices and judicial branches of its member countries.

43. Judicial regional platforms have been established by UNODC to strengthen international cooperation in criminal matters in the regions of the Sahel and the Indian Ocean. Their main focus is to prevent and combat forms of serious crime, such as organized crime, corruption, drug trafficking and terrorism. The platforms are international cooperation networks of focal points, who facilitate extradition and mutual legal assistance in criminal matters procedures with the States members of their platforms.

44. The Commonwealth Network of Contact Persons was established in order to facilitate international cooperation in criminal cases between Commonwealth member States, including on mutual legal assistance and extradition, and to provide

relevant legal and practical information. The Network comprises at least one contact person from each jurisdiction in the Commonwealth.

D. United Nations Office on Drugs and Crime online directory of competent national authorities

45. While networks generally focus on informal information exchange, mostly before formal mutual legal assistance requests are submitted, information exchange remains crucial throughout the process. The information exchanged in the pre-mutual legal assistance stage is not yet evidence and, to convert it into evidence, more formal mechanisms are required. The online directory of competent national authorities, including central authorities for mutual legal assistance and asset recovery focal points, is available at www.unodc.org/compauth_uncac/en/index.html.

46. The Secretariat continued to update the online directory of competent national authorities. As at 27 March 2018, the directory contained the information on:

(a) Central authorities for mutual legal assistance in 129 States parties;

(b) Prevention authorities in 112 States parties;

(c) Asset recovery focal points in 80 States parties;

(d) Central authorities on extradition in 23 States parties;

(e) Focal points for international cooperation in the use of civil and administrative proceedings in 32 States parties.

IV. Towards non-binding guidelines on the timely sharing of information in accordance with article 56 of the Convention and improving communication and coordination between various asset recovery practitioner networks

47. The Working Group may wish to use the following draft guidelines as a basis for the development of non-binding guidelines on the timely sharing of information and improved communication and coordination between asset recovery practitioner networks.

48. The Working Group may also wish to make recommendations on the methodology that should be adopted for finalizing the guidelines and presenting them to the Conference of the States Parties to the United Nations Convention against Corruption at its ninth session, to be held in November 2019.

Draft guideline 1

States should be able to spontaneously transmit information on the basis of general information-sharing arrangements, through networks, or on a case-by-case basis

1. States should be able to transmit information spontaneously without the need for a treaty basis and, if possible, without the need for an assurance of reciprocity.

2. Countries should be able to share information, for example, based on existing general information-sharing arrangements or networks, or on a case-by-case basis. In cases where States can apply the Convention directly, it should also be possible to share information spontaneously, using article 56 of the Convention as a basis.

3. States should consider including the spontaneous sharing of information in new bilateral and regional treaties on mutual legal assistance or concluding new information-sharing arrangements.

Draft guideline 2

States should establish clear domestic rules about the conditions and avenues for sharing information, and the types of information that can be shared

1. Such regulations should include the designation of the authority or authorities that are allowed to share information, and explicit authorization for responsible officials to disclose relevant types of information when the conditions are met.

2. It is not considered necessary to include these rules in legislation, although on the basis of the information available to the Secretariat, approximately one fifth of States parties have done so (general legislation on criminal procedure or mutual legal assistance, or laws on combating corruption or money-laundering).

Draft guideline 3

Regulations should be conducive to the sharing of information

In line with article 46, paragraphs 4 and 5, and article 56 of the Convention, States parties should enact regulations that are conducive to the sharing of information and that allow for a swift reaction when relevant information appears. States parties should avoid requirements that are stricter than those of regular mutual legal assistance procedures, including high minimum penalty thresholds or data protection requirements that go beyond general confidentiality requirements or that are considerably stricter than international standards. Also, restrictive procedural rules, for example, the requirement of a ministerial decision, should be avoided.

Draft guideline 4

Receiving countries should follow up actively on the information transmitted

1. Receiving countries should comply with any requests for received information to remain confidential, even temporarily, or with restrictions on its use.

2. Receiving countries should reply actively and collaboratively on the information provided. Actions to be taken by such countries could include:

(a) Contacting the transmitting jurisdiction for informal discussions on further steps;

(b) Opening an investigation, if that has not yet been done and if the elements are sufficient under its domestic law;

(c) Preparing the relevant mutual legal assistance requests to complement the information and request (continued) seizure or freezing orders.

Draft guideline 5

Spontaneous information-sharing should in general be considered favourably in cases of administrative freezing and settlement procedures

1. States that can administratively freeze assets should consider spontaneously sharing information, with the country of origin, on assets that were administratively frozen and should provide, if appropriate, assistance in the ensuing mutual legal assistance procedures.

2. States that pursue settlement procedures should consider spontaneously transmitting information to other affected countries on the basic facts of the case and proactively sharing information on concluded settlements with other potentially affected countries.

Draft guideline 6

States should endeavour to nominate effective contact points for practitioner networks

1. Each contact point should be aware of relevant domestic procedures and be in a position to promptly assist with advice in line with the established practice in his/her legal system and the mandate of his/her institution.

2. Language requirements should be taken into account.

3. A simple and transparent procedure for nominating contact points should be established, taking into account the need for continuity in the network's meetings and other activities. Where there is turnover, institutions should be encouraged to replace contact points promptly.

4. Internal guidelines describing the type of assistance that can be rendered by the contact points can be helpful.

Draft guideline 7

States should invest in the institutional support and resources for networks

1. In order to ensure sustainability and consistency of work done by networks, as well as to improve the communication and coordination between them, the allocation of adequate resources is key.

2. For members of the network, this includes advance planning and allocating sufficient time for the focal points to fulfil their responsibilities. Resources for participation in network meetings should be provided for, in particular for coordination with other networks.

3. Networks also need resources for, inter alia, supporting the secretariat and secure communication platforms and hosting annual meetings and steering group meetings.

4. Donors and technical assistance providers should consider providing assistance to networks so that they can carry out their activities.

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